UNITED STATES DISTRICT COURT		EASTERN DISTRICT OF TEXAS
MELODIO REYES,	§ e	
Plaintiff,	8 8 8	
versus	§ CIV	VIL ACTION NO. 1:20-CV-61
M.K. LEWIS, et al.,	8 8 8	
Defendants.	8 8	

## MEMORANDUM ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Melodio Reyes, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this lawsuit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed without prejudice pursuant to FED. R. CIV. P. 41(b).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

Plaintiff was warned of the potential dismissal of his lawsuit for failing to comply with the order to submit a proper application to proceed *in forma pauperis*. Such warning, however, has proven futile in prompting the diligent prosecution of this case. Plaintiff has failed to show he made any attempt to comply with the order. The court has considered lesser sanctions but finds no lesser sanction appropriate because plaintiff has failed to comply with the initial requirement for all litigants, to pay the required filing fee or, as required under the PLRA, submit a properly certified application to proceed *in forma pauperis* and pay an initial partial filing fee. The dismissal of this action will be without prejudice, and plaintiff is not barred by the applicable two-

year statute of limitations. Therefore, plaintiff may refile his lawsuit after obtaining the proper information necessary for the court to determine his eligibility to proceed on an *in forma pauperis* basis.

## **ORDER**

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

SIGNED at Beaumont, Texas, this 20th day of August, 2020.

MARCIA A. CRONE

Maria a. Crone

UNITED STATES DISTRICT JUDGE